

REMARKS

Applicant respectfully requests reconsideration and withdrawal of the objections and rejections in view of the foregoing amendments and the following remarks. By the present Amendment, claims 1 and 3-5 have been amended. Claim 2 has been canceled. Claims 1, and 3-34 are pending in this application.

CLAIM REJECTIONS—35 U.S.C. § 102

Examiner rejected claims 1, 2, 3, 4, 5, 9, and 10 under 35 U.S.C. § 102 (b) as being anticipated by *Serenkin* '425. This rejection is respectfully traversed. *Serenkin* '425 does not disclose the invention claimed because it does not disclose each and every element of the claimed invention and even teaches away from the claimed invention. A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference arranged as they are in the claims. *In re Bond* 910 F.2d 831, 832(Fed. Cir. 1990). Furthermore, Examiner should consider all limitations of the claimed invention when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582 (Fed. Cir. 1994).

Applicant has amended Claim 1 to further define the gate claimed. In particular, Claim 1 specifies that the “gate comprises a plurality of sliding members for covering said opening in said conveyor configured such that each of said sliding members is movable in a longitudinal direction with respect to an adjacent sliding member and said conveyor.” Claim 1 also claims a control system that “independently actuates each of said sliding members to regulate said size of said opening based on a demand for said product to be dropped from said conveyor.” These limitations of Claim 1 are not disclosed by *Serenkin* '425. *Serenkin* '425 does not teach a gate with a plurality of sliding members “moveable in a longitudinal direction with respect to an

adjacent sliding member and said conveyor.” Further, *Serenkin* ‘425 does not teach that the gates may be independently actuated as is claimed by the present invention. In fact, *Serenkin* ‘425 teaches that the conveyor therein should distribute material uniformly to “rail cars, truck trailers, barges, storage piles and other containers.” (Col. 1, lines 39-41, Col. 2, lines 46-51). Thus, *Serenkin* ‘425 actually teaches away from the present invention because the present invention “independently actuates each of said sliding members to regulate said size of said opening based on a demand for said product to be dropped from said conveyor.” *Serenkin* ‘425 is concerned, not with actuating the discharge stations based on a demand for product, but for setting the stations so that the discharge is uniform across the length of the conveyor so that the rail car or truck trailer, etc. is filled evenly. Thus, the invention disclosed by *Serenkin* ‘425 would not solve the problem solved by the present invention, and consequently, *Serenkin* ‘425 does not anticipate the present invention. Applicant would note that Examiner has allowed Claim 11. Applicant has amended Claim 1 to include some of the elements of Claim 11 while eliminating elements that are not essential to the invention. Therefore, Applicant requests that Examiner withdraw the rejection and allow Claim 1 as amended.

Claims 3-5, and 9-10 are patentable for the same reasons argued above in regard to Claim 1. In particular, *Serenkin* ‘425 does not teach a gate that contains the sliding members as claimed by the present invention. Further, *Serenkin* ‘425 does not teach pneumatic actuators arranged as they are in Claim 3 of the present invention to connect to the sliding members. Further, *Serenkin* ‘425 does not teach selective operation of a sliding member as is claimed in Claim 5 of the present invention. In regard to Claim 9, *Serenkin* ‘425 does not teach the analog input from a level sensor that is claimed in Claim 9. Further, *Serenkin* ‘425 does not teach the

actuation of the gate based on an input from the level sensor. Therefore, Applicant requests that Examiner withdraw the rejections to Claims 1, 3-5, and 9-10 and allow the claims as amended.


CONCLUSION

Applicant has reviewed the prior art cited by Examiner in the Notice of References Cited in the Office Action and asserts that none of the prior art references, either alone or in combination, are relevant to the patentability of the Applicant's invention.

If there are any outstanding issues, which the Examiner feels may be resolved by way of a telephone conference, the Examiner is cordially invited to contact Vincent J. Allen at 972-367-2001.

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